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Office of the Governor

June 5, 2017

The Honorable Aaron Ford
Nevada State Senate Majority Leader
401 South Carson Street
Carson City, NV 89701

RE: Senate Bill 357 of the 79th Legislative Session

Dear Leader Ford:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 357 ("SB 357"), which is entitled:

AN ACT relating to apprentices; prohibiting a public body from awarding certain contracts for a public work to a contractor unless the contractor complies with certain requirements relating to the use of apprentices on public works or pays a monetary penalty; prohibiting a contractor on certain public works from awarding subcontracts for more than 5 percent of the value of the public work to a subcontractor unless the subcontractor complies with certain requirements relating to the use of apprentices on public works or pays a monetary penalty; revising provisions relating to apprenticeship programs; and providing other matters properly relating thereto.

There is no question that apprenticeship programs have historically played a critical role in providing essential training for workers in high-growth, high-demand occupations. Apprenticeship programs will continue to play an important role in workforce development, particularly as Nevada's economy becomes more diversified, and more job opportunities emerge in 21st century industries and professions. To the extent SB 357 seeks to further integrate apprenticeship programs into Nevada's workforce investment system, the legislation is not without merit.

The ultimate effect of this bill, however, will be to provide a significant advantage for some contractors, while penalizing others, based not upon the performance of the contractors, but simply upon the number of apprentices the contractor is able to employ. SB 357 would require any contractor offering a bid for a public works contract to first obtain certification that a certain percentage of work performed by the contractor is performed by apprentice employees. Failure to obtain such certification would require the payment of a penalty before a bid could be submitted, the proceeds of which would be dedicated exclusively to promoting apprenticeship programs within a single industry. These provisions are not only restrictive and burdensome, they are also unrelated in any rational way to ensuring that contracts are

awarded to bidders based upon their competitiveness, their demonstrated quality of work, or whether their offer constitutes the best value for taxpayer-funded projects.


While it may be in the best interest of some contractors to employ a certain number of apprentices, it may be cost-prohibitive for others, particularly given the relatively low number of apprenticeship programs in Nevada at the present time. The U.S. Department of Labor has published data with regard to apprenticeship programs in Nevada indicating that our state is near the bottom of the list in terms of active, approved apprenticeship programs. Thus it is a real possibility that the provisions of SB 357 will exclude a significant number of contractors from the bidding process for public works contracts. Moreover, in 2016, the U.S. Department of Labor included Nevada as one of only four states nationwide that approved no new apprenticeship programs, compared with eleven other states that approved at least 50 new programs. With such a low number of apprenticeship programs relative to national averages, it is clear that requiring contractors to employ a certain number of apprentices in order to compete for public works contracts will benefit a small number of bidding companies while penalizing many others.

Additionally, section 4.7 of SB 357 requires the proceeds of the penalties assessed against a contractor with few or no apprentice employees to be used exclusively for "programs for the recruitment, education, and training of construction workers." Promoting apprenticeship programs that train workers for occupations in the construction industry is a worthwhile effort, but promoting apprenticeship programs exclusively within a single industry fails to recognize the vast potential of industries that are quickly defining the New Nevada economy. Furthermore, focusing exclusively on promoting worker training programs within a single industry potentially runs afoul of federal regulations regarding state oversight of apprenticeship programs. 29 CFR §29.13 requires state planning for oversight of apprenticeship programs to "demonstrate linkages and coordination with the State's economic development and strategies and publically-funded workforce investment system." SB 357 reflects an effort to promote apprenticeships within a single industry, ignoring the role apprenticeship programs must continue to play in the State's broader economic development and workforce investment strategies.

Finally, it should be noted that opposition to SB 357 has been voiced by the Nevada Association of General Contractors, based upon the fact that no recognized apprenticeship programs exist for roofing, landscaping, glazing, and other industries. Opposition was also expressed by the Associated Builders and Contractors, local chambers of commerce, and other private construction businesses in Nevada.

For these reasons I veto SB 357 and return it without my signature or approval.

Sincere regards,



BRIAN SANDOVAL
Governor

Enclosure

cc: *The Honorable Mark Hutchison, President of the Senate (without enclosure)*
The Honorable Jason Frierson, Speaker of the Nevada Assembly (without enclosure)
The Honorable Barbara Cegavske, Nevada Secretary of State (without enclosure)
Claire J. Clift, Secretary of the Senate (without enclosure)
Susan Furlong, Chief Clerk of the Assembly (without enclosure)
Brenda Erdoes, Esq., Legislative Counsel (without enclosure)